



AZ POST

INTEGRITY BULLETIN

Volume No. 28



The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **July 2006 and August 2006**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "*Editor Notes*" and the "Frequently Asked Questions" section are historical observations and insights for training and discussion purposes only.

July 2006 and August 2006

CASE NO. 1

FAILURE TO REPORT

Officer A used his flashlight as an impact weapon while attempting to subdue a suspect. The department had a specific policy forbidding the use of a flashlight as an impact weapon. When asked by his supervisor about the struggle, Officer A described the struggle in detail, but left out the part about using his flashlight. The agency terminated his employment. The Board adopted a consent agreement proposed by the officer calling for a 30 day suspension for misfeasance in office.

CASE NO. 2

UNWANTED PHONE CALLS

Officer B, his estranged wife and her new boyfriend (another officer with the same agency) were engaged in repeated interaction of an unfriendly and antagonistic nature. Officer B made numerous unwanted telephone calls to his estranged wife's cell phone and to the residence she shared with her boyfriend. The boyfriend had reported what he considered to be racist remarks. The Board adopted a consent agreement calling for a six month suspension of certification for the phone calls and dismissed the allegations of racial remarks.

CASE NO. 3

ABUSE OF AUTHORITY

Officer C was attempting to help his friend retrieve his camera from a sixteen year old girl who was holding it because she believed the friend owed her money. He made a phone call to the girl, identified himself as a peace officer and made statements that she found threatening, such as, "I will rock your world" if you don't give it back. The Board adopted a consent agreement calling for a six month suspension for malfeasance in office.

CASE NO. 4**DISHONESTY**

Officer D was engaged in a high speed pursuit that began on an interstate and continued onto a major city freeway. The pursuit was recorded by his dash mounted video camera. When the suspect entered surface streets, the order was given to "back off." Officer D eventually re-engaged himself in the pursuit. The suspect turned into a residential neighborhood and Officer D followed, with his lights and siren activated. The department forbids running code in a residential area. Officer D denied to a supervisor and later to a commander that he had been running code in the neighborhood. The video camera showed he was untruthful. He also made several misleading statements to investigators after Garrity admonitions during two IA interviews. Officer D did not request a hearing or contest the allegations. The Board revoked his certification for committing an offense involving dishonesty and malfeasance.

CASE NO. 5**DISHONESTY**

Deputy E had been dating an officer from another law enforcement agency. Shortly after their break-up, she saw him eating in a local restaurant. Deputy E telephoned dispatch and made a false report of a motor vehicle accident knowing it would interrupt her ex-boyfriend's meal. She was on duty at the time and had an explorer riding with her. She was charged with false reporting and allowed to enter a diversion program whereby the charge will be dismissed. The agency terminated her employment. Approximately six weeks later another agency hired her as an officer, knowing what she had done and knowing that POST had a case pending concerning her misconduct. Deputy E did not contest the allegations but appeared before the Board to admit her misconduct, explain her perception of how her perceived working conditions and emotional stress led her to exhibit such terrible judgment, and ask for leniency. Four witnesses testified on her behalf including the Town Manager and Chief of Police where she was currently an officer. The Board was sharply divided on the appropriate sanction with two motions ending in a tie vote: the first called for a one year suspension and the second called for revocation of her peace officer certification. The Board ended up passing a motion to suspend Deputy E's certification for two years prospectively, with credit for the six weeks between her termination and hiring by the current agency.

CASE NO. 6**NO CAUSE**

Officer F was accused of inappropriately touching the breasts of a female during a pat-down, threatening another female to arrest her if she did not consent to a search and lying during the investigation of the incident. The matter went to hearing before an independent Administrative Law Judge of the Office of Administrative Hearings who found that no misconduct in violation of POST rules took place. The Board adopted the Findings of Fact and Conclusions of Law and Dismissed the case against Officer F.

CASE NO. 7**EXCESSIVE FORCE**

Officer G struck a prisoner in the face who was loosely "four-pointed" to a hospital bed. The officer thought the prisoner was attempting to bite him and he reacted with anger, using force greater than called for by department policy. The department terminated Officer G but reinstated him with a 240 hour suspension. The Board adopted a consent agreement calling for a concurrent suspension of peace officer certification for malfeasance in office.

CASE NO. 8**ASSAULT**

Officer H pushed and struck her husband several times during an argument. The Board revoked her certification for committing an offense involving physical violence.

CASE NO. 9**ALCOHOL ON DUTY**

Officer I was on duty and in uniform when the chief of police smelled alcohol and asked for a breath test. The test showed a blood alcohol level of .101%. Officer J admitted his wrongdoing and appeared before the Board. The Board revoked certification for malfeasance in office.

CASE NO. 10**ASSAULT AND DISHONESTY**

Officer J assaulted a man when both were intoxicated. He lied during the internal affairs investigation about being aware of an assault and about providing beer to minors. The Board revoked his certification for committing an offense involving physical violence and malfeasance in office.

The Board adopted consent agreements calling for voluntary relinquishments in the following fact situation. The scenario stated here reflects the allegations giving rise to the POST case, but the facts were not proven before the Board.

- An officer committed theft of money from a suspect's property.

The Board entered a mandatory revocation for a conviction of theft, a class 5 felony.

On July 12, 2006, and, August 16, 2006, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- An officer failed to complete several departmental reports in a timely manner.
- An officer used a tablet of medication that had been prescribed to a friend two days before obtaining a prescription of his own for the same medication.
- A recruit failed to follow the rules of the academy and gave misleading excuses for the failure.
- An officer was DUI in his personal vehicle.
- Another officer was DUI in his personal vehicle.
- An officer used poor judgment by deploying his taser to remove a suspect from a tree.
- An officer, while intoxicated and off-duty, forcefully assisted a convenience store security officer to remove an unwanted guest.
- An officer used prescribed drugs for treatment of an injury without notifying her agency as required by that agency's policy.
- An officer failed to properly and thoroughly investigate assigned criminal cases in a timely manner.
- A Sergeant denied removing a screen while waiting for a search warrant.
- An officer stated he was not arrested two years before when he was detained for a DUI breath test and released but never charged or cited.
- An officer had a history of insensitivity toward women.